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Social Welfare for Ukrainian Citizens in Poland. Selected Aspects

Dr. hab. Dominika Cendrowicz

Faculty of Law, Administration and Economics, University of Wrocław
Assistant Professor at the Institute of Administrative Sciences
E-mail: dominika.cendrowicz@uwr.edu.pl

The objective of the article is to analyse the provisions of the Act on assistance to Ukrainian citizens in connection with the armed conflict on the territory of that country of 12 March 2022 (hereinafter: Act on Assistance or AoAUC) regarding the ability of this group of foreigners to apply for social welfare in Poland. The article reconstructs the personal criteria regarding the right to social welfare for Ukrainian citizens who have come to Poland as a result of the unprecedented aggression of the Russian Federation on the territory of independent Ukraine. It also discusses the principles and procedure of its award to Ukrainian citizens by the authorities of the Polish public administration. *De lege lata* and *de lege ferenda* conclusions are formulated on the extent and forms of social welfare for which Ukrainian citizens may apply.

Keywords: social welfare, Act on assistance to Ukrainian citizens in connection with the armed conflict on the territory of that country, war refugees, war in Ukraine, Republic of Poland.

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Introduction

“The Russian Federation’s troops attacked the territory of Ukraine on 24 February 2022. These events led to thousands of Ukrainian citizens starting to head towards Poland seeking refuge.¹ It therefore became necessary to develop legal solutions regarding this group of foreigners.”² The European Council condemned this unprovoked and unjustified aggression on the very first day of the war, emphasizing, among other things, that Russia had grossly breached international law and the principles of the UN Charter. The European Council also demanded that Russia immediately cease military action and respect Ukraine’s sovereignty, territorial integrity and independence.³ On 4 March 2022, the Council (EU) adopted Implementing Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection.⁴

On 9 March 2022, the Polish *Sejm* adopted the Act on assistance to Ukrainian citizens in connection with the armed conflict on the territory of that country,⁵ implementing Council Implementing Decision (EU) 2022/382 and resulting in the introduction of temporary protection. The Act represents the first ever use of the instruments of protection provided for in Council Directive 2001/55/EC.⁶ It was published on 12 March 2022 in the Journal of Laws of the Republic of Poland and entered into force retrospectively from 24 February 2022. The justification of this Act emphasizes that it is an attempt to respond to the problems that have arisen in the area of ensuring the legality of the stay of people coming from Ukraine to Poland as a result of Russia’s aggression against Ukraine.⁷ The Act on assistance is in force together with other acts of law to date regarding the legalization and residence of foreigners, and therefore does not rule out other procedures for obtaining temporary protection in Poland for Ukrainian nationals not covered by AoAUC under Article 1(1), in particular, on the basis of Council Implementing Decision (EU) 2022/382 of 04.03.2022.⁸ Furthermore, from the national law perspective, it constitutes

¹ See: Council Implementing Decision (EU) 2022/382 of 4.03.2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection (OJ L 71, 4.3.2022, pp. 1–6).

² Uzasadnienie do Rządowego projektu ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa [Justification to the Government bill on assistance to Ukrainian citizens in connection with the armed conflict in Ukraine]. Available: <https://www.sejm.gov.pl/sejm9.nsf/druk.xsp?nr=2069> [last viewed 21.05.2022].

³ European Council conclusions of 24.02.2022 on Russia’s unprovoked and unjustified military aggression against Ukraine. Available: <https://www.consilium.europa.eu/en/press/press-releases/2022/02/24/european-council-conclusions-24-february-2022/> [last viewed 17.07.2022].

⁴ Council Implementing Decision (EU) 2022/382.

⁵ Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa [The Act on assistance to Ukrainian citizens in connection with the armed conflict on the territory of that country] (12.03.2022), Journal of Laws of 2023, item 103, as amended.

⁶ Council Directive 2001/55/EC of 20.07.2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of effort between Member States in receiving such persons and bearing the consequences thereof (OJ L EU No. 212, p. 12).

⁷ Justification to the Government bill on assistance to Ukrainian citizens.

⁸ *Szmid, K., Sawicki, P.* (eds). Ustawa o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa [The Act on assistance to Ukrainian citizens in connection with the armed conflict on the territory of that country]. Warsaw: C. H. Beck, Legalis Database, 2022.

a *lex specialis* to the Act on Foreigners of 12 December 2013⁹ and the Act on Granting Protection to Foreigners on the Territory of the Republic of Poland of 13 June 2003.¹⁰

AoAUC regulates not only issues related to the legalization of the residence of people coming to Poland from Ukraine, but also provides a simplified procedure for employing Ukrainian citizens legally residing in Poland, makes it easier for them to conduct business, and specifies the extent of the assistance organized by voivods, local government units (municipalities, counties and voivodships) and other entities. AoAUC also regulates the matter of the Assistance Fund, the rights of students, academic teachers and researchers who have come from Ukraine, as well as the principles of organizing and operating Polish universities and colleges. Likewise, this Act regulates the principles of education, upbringing, and care provided for children and pupils who are Ukrainian citizens, as well as the principles of taking up and conducting business activity by Ukrainian citizens.¹¹

According to official statistics, since Russia's aggression against Ukraine, the Polish Border Guard officers have cleared 13 million people at border crossings coming from Ukraine to Poland.¹² This has resulted in an urgent need for the Polish public administration to provide assistance to Ukrainian citizens who have fled from the Russian aggression.¹³ Along with the COVID-19 pandemic, the war in Ukraine has recently become one of the most serious challenges faced by the national public administration in the 21st century. The Russian aggression against Ukraine is primarily a human tragedy, which, in the long term, carries the threat of poverty, homelessness and perhaps even human trafficking. This necessitates providing social support to Ukrainian citizens within the framework of the national social welfare system, which would protect these people from falling into poverty or homelessness and, in the long term, would contribute to their integration into Polish society and enable them to live independently in Poland. It should therefore be emphasized that Article 29 AoAUC provides that social welfare benefits may be granted to Ukrainian citizens on the principles and in the procedure of the Act on Social Welfare of 12 March 2004.¹⁴ Moreover, in the further provisions, AoAUC lays down the possibility for Ukrainian citizens to apply for other forms of social support outside the Act on Social Welfare, as well as for psychological assistance.¹⁵

1. Subjective aspects of the right to social welfare for Ukrainian citizens under the provisions of AoAUC

In order to analyse the subjective scope of the right to social welfare for Ukrainian citizens in connection with the provisions of AoAUC, it would first be necessary to establish what the subjective scope of this Act is. The beneficiaries of AoAUC are:

⁹ Ustawa o cudzoziemcach [The Act on Foreigners] (12.12.2013), Journal of Laws of 2023, item 1512, as amended, hereinafter: AoF.

¹⁰ Ustawa o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej [The Act on Granting Protection to Foreigners on the Territory of the Republic of Poland] (13.06.2003), Journal of Laws of 2022, item 1264, as amended, hereinafter: AoProt.For.

¹¹ Article 3(3) AoAUC.

¹² Specified on the basis of the official profile of the Polish Border Guard Service. Available: https://twitter.com/Straz_Graniczna [last viewed 02.07.2023].

¹³ Maczyński, P. Jak przyznawać świadczenia pomocy społecznej dla obywateli Ukrainy 'krok po kroku' [How to grant social welfare benefits to Ukrainian citizens 'step by step']. LEX/el. 2022 Database.

¹⁴ Ustawa o pomocy społecznej [The Act on Social Welfare] (12.03.2004), Journal of Laws of 2023, item 901, as amended, hereinafter referred to as 'SWA'.

¹⁵ Article 31–33 AoAUC.

- 1) Ukrainian citizens,
- 2) Ukrainian citizens who hold a Pole's Card,¹⁶
- 3) families of Ukrainian citizens who hold a Pole's Card,
- 4) spouses of Ukrainian citizens,

who have legally come to Poland since 24 February 2022 because of the war in Ukraine and declare that they intend to stay in the Republic of Poland. It should be noted at this point that stay in the Republic of Poland is considered legal until 4 March 2024.¹⁷ If a Ukrainian citizen leaves Poland for more than 30 days, this deprives him or her of the right of legal residence.¹⁸ According to Article 2(1) AoAUC, Ukrainian citizens, who legally arrived in Poland between 24.02.2022 and the date specified in the regulations issued under Article 2(2) AoAUC and declare that they intend to stay in Poland, are considered persons enjoying temporary protection in the Republic of Poland in the meaning of Article 106(1) AoProt.For. However, the provisions of Chapter 3 of Section III AoProt.For. and Article 87(1)(6) of the Act on the promotion of employment and labour market institutions¹⁹ do not apply to the temporary protection enjoyed by Ukrainian citizens. It is simultaneously worth noting that, in the EU, Council Implementing Decision (EU) 2022/382 of 4.03.2022 applies to Ukrainian citizens, as well as stateless persons and nationals of third countries other than Ukraine who benefited from international protection in Ukraine and their family members, if they resided in Ukraine before 24 February 2022 inclusive. The group of people to whom temporary protection applies under the provisions of this decision is specified by its Article 2, which provides that 'This decision applies to the following categories of persons displaced from Ukraine on or after 24 February 2022, as a result of the military invasion by Russian armed forces that began on that date: (a) Ukrainian nationals residing in Ukraine before 24 February 2022; (b) stateless persons, and nationals of third countries other than Ukraine, who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022; and, (c) family members of the persons referred to in points (a) and (b).'

On the negative side, it should be emphasized that AoAUC does not apply to Ukrainian citizens who have:²⁰

- 1) a permanent residence permit,
- 2) a long-term EU residence permit,
- 3) a temporary residence permit,
- 4) the status of a refugee,
- 5) subsidiary protection,
- 6) a tolerated stay permit.

Furthermore, Ukrainian citizens who have filed an application for international protection or declared that they intend to file such an application are not subject to the regulations of AoAUC, unless they withdraw the application or declaration. Ukrainian citizens, who benefit from temporary protection within an EU Member

¹⁶ The procedure and conditions for obtaining a Pole's Card are specified in Ustawa o Karcie Polaka [The Act on the Pole's Card] (07.09.2007), Journal of Laws of 2023, item 192.

¹⁷ Article 2(1) and (2) AoAUC.

¹⁸ Article 11(2) AoAUC.

¹⁹ Ustawa o promocji zatrudnienia i instytucjach rynku pracy [The Act on the Promotion of Employment and Labour Market Institutions] (20.04.2004), Journal of Laws of 2023, item 735, as amended.

²⁰ Article 2(3)(1) AoAUC.

State other than Poland, which was granted because of military activities in Ukraine among other things, are also not subject to the provisions of this law.²¹

Moving on to the considerations about the subjective scope of the right to social welfare for Ukrainian citizens under the provisions of AoAUC, it should be noted that, in accordance with Article 29(1) AoAUC, social welfare may be granted to Ukrainian citizens residing in Poland whose stay in Poland is considered legal under Article 2(1) AoAUC and who have been entered into the PESEL register.²² According to Article 30(1) AoAUC, Ukrainian citizens whose family members have returned to Ukraine (e.g. to fight the Russian invaders) are also entitled to social welfare, whereby in this situation, the family member who has returned to Ukraine is not included among the family members.

It follows from the above that, in terms of the conditions for allowing social welfare, AoAUC distinguishes between two groups of potential beneficiaries of this welfare. These are:²³

- 1) the people referred to in Article 2(1) AoAUC (Article 29 AoAUC), and
- 2) Ukrainian citizens legally residing in Poland, whose family members have returned to Ukraine – and therefore people who have already previously stayed in Poland, for example, on the basis of a temporary residence permit (Article 30 AoAUC).

The Ukrainian citizens to whom the provisions of AoAUC are addressed do not have the status of a foreigner under Article 91 SWA, i.e., a refugee, a foreigner benefiting from subsidiary protection or residing in Poland on the basis of a temporary residence permit granted in connection with the circumstance referred to in Article 159(1)(1)(c) or (d) AoF.²⁴

Additionally, it should be pointed out that in accordance with Article 5 SWA, both Polish citizens and specific groups of foreigners are entitled to social welfare. Article 5(2)(a) SWA provides that, unless international agreements provide otherwise, foreigners, who are, in particular, persons enjoying international protection, i.e., they have refugee status or temporary protection, are entitled to social welfare. This group of foreigners may apply for the benefits specified in Article 92 SWA. Article 5(2)(b) SWA refers to foreigners who are staying on the territory of the Republic of Poland on the basis of a residence permit for humanitarian reasons or tolerated stay. The SWA provides for assistance in the form of shelter, a meal, necessary clothing and a special purpose benefit for this group of foreigners, and this task is performed by municipalities. However, the groups of foreigners specified in Article 5(2)(a) and (b) SWA do not include the category of foreigners, namely Ukrainian citizens, who are covered by the provisions of AoAUC.²⁵

Consequently, Ukrainian citizens can have three statuses under the provisions of national law and, depending on their status, they are entitled to different types

²¹ Article 2(3)(3) AoAUC. See also: Article 2(3)(2) AoAUC.

²² The PESEL number is an 11-digit numerical symbol uniquely identifying a natural person.

²³ *Klimowicz, I., Józwiak, S. Pomoc społeczna i wsparcie instytucji pomocowych dla uchodźców wojennych z Ukrainy – wybrane aspekty ustawy o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa* [Social welfare and support of institutions providing aid to war refugees from Ukraine – selected aspects of the Act on assistance to Ukrainian citizens in connection with the armed conflict on the territory of that country]. *Doradca w Pomocy Społecznej*, No. 90, May 2022. Available: <https://doradcawpomocypolecznej.pl/> [last viewed 10.07.2022].

²⁴ *Ibid.*

²⁵ *Ibid.*

of social welfare. The further part of this article will focus exclusively on Ukrainian citizens to whom the provisions of AoAUC are addressed.

2. Notion and forms of social welfare for Ukrainian citizens under the provisions of AoAUC

In order to clarify, what social welfare benefits can be claimed by Ukrainian citizens who are the addressees of AoAUC and on what conditions, the concept first needs to be explained and the legal regulation of social welfare in Poland should be specified. In the Polish literature on administrative law, social welfare may be understood narrowly or broadly. The narrow understanding of social welfare is related to the legal act dedicated to this matter, namely, the Act on Social Welfare, and the regulations it contains on the general principles and objectives, the type of benefits, and the principles and procedure for providing them, the organization of social welfare and the rules related to control proceedings in social welfare.²⁶ According to the definition contained in Article 2(1) SWA, the narrow understanding of social welfare should be applied to the institution of the State's social policy, intended to enable people and families to overcome difficult situations in life, which they are unable to overcome using their own rights, resources and capabilities. It is worth emphasizing that the narrow approach to social welfare refers to the principle of subsidiarity, which is formed by Article 2(1) and (3) and Article 2(2) SWA. According to the judgment of the Voivodship Administrative Court in Lublin of 17 January 2019, this principle in social welfare involves the state's obligation to assist the citizen in overcoming a difficult financial situation in which he or his family has found itself. However, the State's obligation is not unconditional, which means that social welfare should only be provided when, having taken advantage of his rights, resources and possibilities, the individual is no longer self-sufficient.²⁷ However, a broad definition of social welfare is related to all the regulations by which non-equivalent benefits are granted from public funds to satisfy the necessary needs of individuals or families who are unable to overcome the needs on their own.²⁸ Social welfare understood in this way includes the Acts on housing allowances,²⁹ on family benefits³⁰ and on State aid in the upbringing of children.³¹

In social welfare, the benefit, which is the fundamental form of providing social welfare, is the central conceptual category. The benefits from the national social welfare system are addressed to individuals or families,³² relate to basic matters of

²⁶ Nitecki, S. Prawo do pomocy społecznej w polskim systemie prawnym [The right to social welfare in the Polish legal system]. Warsaw: Wolters Kluwer, 2008, p. 33.

²⁷ Ruling of the Voivodship Administrative Court in Lublin of 17.01.2019, II SA/Lu 726/18, Lex Database No. 2624773.

²⁸ Nitecki, S. Prawo do pomocy, p. 33.

²⁹ Ustawa o dodatkach mieszkaniowych [The Act on housing allowances] (21.06.2001), Journal of Laws, 2021, item 2021, as amended.

³⁰ Ustawa o świadczeniach rodzinnych [The Act on family benefits] (28.11.2003), Journal of Laws, 2023, item 390, as amended.

³¹ Ustawa o pomocy państwa w wychowywaniu dzieci [The Act on State aid in the upbringing of children]. 11.02.2016, Journal of Laws, 2023, item 810.

³² Sierpowska, I. Pomoc społeczna jako administracja świadcząca. Studium administracyjnoprawne [Social welfare as an example of a providing administration. A study in administrative law]. Warsaw: Wolters Kluwer Polska, 2012, p. 197.

life of significant importance to the individual (family), and are of a social nature.³³ They represent an instrument, whereby the State aims to guarantee the social security of its citizens.³⁴

A list of individual benefits within the scope of the narrowly construed social welfare system was prepared by the legislator in Section II, Article 36 SWA. The benefits listed in this provision constitute an exhaustive list, which includes both monetary and non-monetary benefits. Article 36 SWA only contains a list of social welfare benefits, while the descriptions of the individual benefits and the prerequisites for obtaining them are contained later in the Act.³⁵ The monetary benefits that can be claimed under the SWA include a permanent benefit, a temporary benefit, a specific purpose benefit, as well as an allowance and loan for becoming economically independent. The non-monetary benefits that can be claimed by this group of foreigners include social work, specialist counselling, shelter, a meal and necessary clothing.³⁶ Ukrainian citizens may apply for the benefits referred to in Article 36 SWA on the principles and in the procedure of the SWA, and therefore, in principle, on the same principles as Polish citizens,³⁷ as discussed in detail below.

In addition, AoAUC provides for the possibility to grant Ukrainian citizens social benefits other than those referred to in Article 36 SWA, such as a one-off monetary benefit of PLN 300 per person for subsistence, in particular to cover expenditure on food, clothing, footwear, personal hygiene products and housing fees,³⁸ and they may also be granted food aid under the Fund for European Aid to the Most Deprived.³⁹ It is equally important that, in accordance with Article 26 AoAUC, people staying legally in Poland on the basis of Article 2(1) AoAUC are entitled to other forms of social support, such as family benefits, upbringing benefit 500+ (provided that the children are also living in the Republic of Poland), the 'Good start' allowance and family care capital. These forms of assistance are outside the Act on Social Welfare, among others, in the Act on State Aid in the Upbringing of Children.

Free psychological assistance should be considered a particularly important form of broadly defined non-monetary form of social welfare for Ukrainian citizens in connection with the traumas of war experienced by these people. Its provision is amongst the government administration tasks delegated to the municipality, and is financed through a special purpose grant from the state budget. Therefore, Ukrainian citizens can benefit from this form of assistance in the municipalities, which constitute the basic units of local government in Poland in the light of Article 164(1) of

³³ Nitecki, S. Prawo do pomocy, p. 197.

³⁴ Sierpowska, I. Bezpieczeństwo socjalne jako kategoria dobra publicznego – na przykładzie pomocy społecznej [Social security as a category of a public good – based on the example of social welfare]. In: Administracja dóbr i usług publicznych [Administration of public goods and services], Woźniak, M. (ed.). Warsaw: Difin, 2013, p. 87.

³⁵ Cendrowicz, D. Sytuacja administracyjnoprawna adresata świadczeń z zakresu pomocy społecznej [The administrative law situation of a social welfare beneficiary]. Wrocław: Uniwersytet Wrocławski. E-Wydawnictwo. Prawnicza i Ekonomiczna Biblioteka Cyfrowa. Wydział Prawa, Administracji i Ekonomii, 2017, p. 80.

³⁶ Article 36(1) SWA.

³⁷ Article 29(1) AoAUC

³⁸ Article 32 AoAUC

³⁹ Article 33 AoAUC

the Constitution of the Republic of Poland⁴⁰ and are closest to the local communities and the problems affecting them, including those of a social nature.⁴¹

It is worth emphasizing at this point that, in Poland, it is the municipalities and the municipal social welfare centres (or social services centres) operating in them that bear the main burden of providing benefits under the SWA⁴². Municipalities are the basic entities of the administration providing social welfare, although numerous tasks in this area are also performed by the counties and voivodship authorities, whereby voivodships, as regional governmental communities, do not perform tasks of a benefit nature. Such distribution of public tasks within the framework of social welfare is in line with the systemic assumptions that are applicable under the Polish Constitution and the basic systemic principles, which include the principle of subsidiarity and the principle of decentralization.⁴³

3. Procedure for granting social welfare to Ukrainian citizens in connection with the provisions of AoAUC

In social welfare, in principle, benefits are granted on the basis of an administrative decision through a formalized administrative procedure. The procedure for awarding benefits in the form of an administrative decision is regulated by the SWA in Section II, Chapter 7 SWA. "Proceedings in the case of social welfare benefits". The regulations of a procedural nature contained in the SWA do not regulate all the issues related to handling administrative proceedings in social welfare. The provision of Article 14 SWA stipulates that, unless the SWA provides otherwise,⁴⁴ in matters not regulated in the SWA, the provisions of the Administrative Procedures Code⁴⁵ shall apply.

In administrative proceedings regarding benefits from social welfare in the narrowly construed sense, an important role is played by the family community interviews, the procedure and principles of which are regulated by the Regulation of the Minister of the Family and Social Policy on the family community interview.⁴⁶ A community interview is a basic and obligatory element of proceedings on taking evidence in social welfare, while the inability to conduct it prevents the authority from assessing the actual financial, family and living situation of the person applying for the benefit. Consequently, the award of a benefit by way of an administrative decision, without procedural steps taken in the form of a family community interview intended to gather a full set of evidence, means that the decision issued in such proceedings is defective.⁴⁷

⁴⁰ Konstytucja Rzeczypospolitej Polskiej [Constitution of the Republic of Poland] (02.04.1997), Journal of Laws No. 78, item 483, as amended.

⁴¹ Skoczylas, A., Piątek, W. Komentarz do art. 16 [Commentary on Article 16]. In: Konstytucja RP. Komentarz. Tom 1 [Constitution of the Republic of Poland. Commentary. Volume 1], Saffan, M., Bosek, L. (eds). Warsaw: C. H. Beck, 2016, p. 443.

⁴² Articles 17 and 18 SWA.

⁴³ Lipowicz, I. Samorząd terytorialny jako podmiot administracji świadczącej [Local self-government as a providing administrative entity]. Ruch Prawniczy, Ekonomiczny i Socjologiczny, No. 3, 2015, p. 115.

⁴⁴ Nitecki, S. Pomoc społeczna. Procedury i tryb przyznawania świadczeń [Social welfare. Procedures of granting benefits]. Wrocław: Gaskor Sp. z o.o., 2011, p. 24.

⁴⁵ Kodeks postępowania administracyjnego [The Administrative Procedure Code] (14.06.1960), Journal of Laws, 2023, item 775, as amended, hereinafter referred to as the 'APC'.

⁴⁶ Rozporządzenie Ministra Rodziny i Polityki Społecznej w sprawie rodzinnego wywiadu środowiskowego [Regulation of the Minister of the Family and Social Policy on the family community interview] (08.04.2021), Journal of Laws, item 893.

⁴⁷ Ruling of the Supreme Administrative Court of 01.03.2017, I OSK 2407/15, Lex Database No. 2277804.

However, the legislator decided to slightly deformalize the procedure for awarding assistance to Ukrainian citizens seeking refuge in the Republic of Poland from the war waged by Russia. A family community interview is not conducted in administrative proceedings on social welfare benefits, in which a Ukrainian citizen is a party applying for benefits, unless doubts arise as to the content of his or her declaration. According to Article 29(2) AoAUC, social welfare benefits are awarded to Ukrainian citizens on the basis of a declaration on the personal, family, income and property situation. The declaration is made under the sanction of criminal liability for making a false declaration.⁴⁸ It is also worth noting that the municipality of the place of residence of the person applying for these benefits has the competence to award the benefits, and therefore the provisions on the local jurisdiction of the municipality in social welfare matters, i.e., Article 101(1)–(4) and (7) SWA, do not apply in cases of this type.

Markedly, in proceedings on social welfare benefits for Ukrainian citizens, the cases must be settled, involving the documents which are not prepared in Polish in their original versions, but in Ukrainian. This can cause certain difficulties in the practice of the social welfare bodies, and a barrier in access to benefits for Ukrainian citizens, because Polish is the official language in Poland. Hence, procedural activities in these proceedings should be conducted in Polish and not in Ukrainian. This results in the need to use translations of documents in the proceedings, as the failure to comply with the obligation to perform official acts in Polish language constitutes a breach of the regulations on proceedings, which can have a significant impact on the outcome of the case.⁴⁹

Summary

The analysis conducted leads to the following conclusions:

The crisis related to Russia's military aggression against Ukraine has posed numerous challenges for the Polish public administration. These are related to the need to provide assistance to Ukrainian citizens who have left their country as a result of the armed conflict in their country. The unprecedented scale of the influx of people from Ukraine is a major challenge for Poland in many areas of operation of the State and the national public administration. The situation has also posed numerous challenges to the institution of social welfare.

The result of the enactment of AoAUC has been that Ukrainian citizens who arrived in Poland after the outbreak of war in connection with the military action in Ukraine are able to apply for social welfare benefits.

Articles 29(2) and 29(3) AoAUC contain simplifications of the procedure in the case of social welfare benefits for Ukrainian citizens encompassed by the provisions of AoAUC. These include waiving a family community interview. However, they do not refer to the procedure of issuing an administrative decision on benefits, the decided majority of which, in accordance with Article 106(1) SWA, are awarded in the form of an administrative decision. Applications for social welfare benefits are made under the general rules envisaged for the given benefit, which are governed by the provisions of SWA.⁵⁰

⁴⁸ Article 29(2) in conjunction with Article 2(3) AoAUC.

⁴⁹ Ruling of the Supreme Administrative Court of 09.05.2007, I GSK 1414/06, Lex Database No. 351111.

⁵⁰ Articles 29(2) and 29(3) AoAUC.

The proceedings on social welfare benefits are conducted in Polish, which is the official language of Poland. The failure to comply with the obligation to perform official acts in Polish constitutes a breach of the regulations on proceedings, which can have a significant impact on the outcome of the case. The exception regarding the ability to use another language in official contacts (other than Polish) is contained in Article 4(19) AoAUC and applies to the application form for assigning a PESEL number and the printout of the confirmation of having created a trusted profile. This does not rule out the introduction of conveniences by a given local government unit through the provision of translations of application forms, or the provision of the assistance of translators.⁵¹

Social welfare proceedings in Poland are of a transitional nature, coinciding with the time of protection arising from AoAUC and the decision of the EU Council, while the basic principle of social welfare institutions is the principle of subsidiarity. Considering the legal and factual situation of the citizens of Ukraine, who have come to Poland in connection with Russia's aggression in their country, such forms of assistance need to be developed in the long term, which will contribute to their integration into Polish society and will create the opportunities that are necessary for them to start an independent life (e.g., as a result of taking up employment or education).⁵²

In the longer term, EU should make efforts to develop a long-term strategy of accepting and integrating Ukrainian citizens into the societies of the EU Member States. Therefore, the EU should increase its assistance to NGOs, which support the efforts of the governments in doing this.⁵³

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⁵³ Uchodźcy z Ukrainy objęci tymczasową ochroną w państwach Europy Środkowej [Refugees from Ukraine under temporary protection in Central European countries]. Available: <https://ies.lublin.pl/komentarze/uchodzczy-z-ukrainy-objeci-tymczasowa-ochrona-w-panstwach-europy-srodkowej/> [last viewed: 02.07.2023].

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